IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.732 OF 2007

Tukaram Dattu Patil ...Petitioner

Versus

Ramchandra Bhairu Patil & Ors. ...Respondents

Shri S.K.Shinde for the Petitioner.
Shri D.B.Sawant for the Respondent No.1.
Ms Mhaisuprkar, A.G.P for the State.

CORAM : ABHAY S.OKA, J.
DATED : JUNE 26, 2007.

P.C.:

1. Rule. The learned counsel for the first Respondent waives service. The learned A.G.P waives service for the rest of the Respondents. The challenge in this Writ Petition under Article 227 of the Constitution of India is to the order passed by the Revisional Authority (fourth Respondent herein) in a revision Application filed by the first Respondent.

2. It will be necessary to briefly refer to the facts of the case. The dispute relates to a CL-III license. The Collector passed an order by which he rejected the Application made by the first Respondent for renewal of the license for the year 2002-2003. The Collector referred to the fact that there was a dispute inter se between the partners/legal heirs of the partners. By the order impugned, the revisional authority allowed the revision Application filed by the

first Respondent. The revisional Authority held that the partnership between the present Petitioner and Smt Manjabai Bhairu Patil came to an end on 21st April, 1995 as a consequence of the death of said Smt Manjabai. It was held that the Petitioner failed to prove that the license was originally granted in his name. It was also held that the license was originally granted in the name of late Bhairu, the father of the first Respondent. The revisional Authority therefore directed that name of the Petitioner should be deleted from the license. The revisional Authority directed that as consent letters have been issued by the holders of the original licence, the license shall be transferred in the name of the first Respondent.

3. The learned counsel for the Petitioner invited my attention to various documents which are placed on record of this Writ Petition alongwith an affidavit dated 07th March, 2007. The submission of the learned counsel appearing for the Petitioner is that the license in question was issued for the first time on 24th May, 1974 in the name of the father of the first Respondent and the Petitioner. He invited my attention to the three documents which are annexed to the affidavit.

4. The learned counsel appearing for the first Respondent submitted that the revisional Authority has

considered the entire material on record. He invited my attention to communication issued to the Collector by the State Government on 20th February, 1974 which according to him shows that the original license was issued only in the name of deceased Bhairu (father of the first Respondent). He submitted that name of the Petitioner was subsequently incorporated in the license in his alleged capacity as a partner. He, therefore, submitted that the revisional Authority was justified in passing the order as the partnership had come to an end. The learned A.G.P supported the impugned order.

5. I have carefully considered the submissions. The perusal of the order passed by the Revisional Authority shows that the documents which are annexed to the additional affidavit of the Petitioner have not been considered. I have directed the learned A.G.P to produce the the original record to enable the counsel appearing for the parties can take inspection of the said documents. There is no dispute that the documents which are annexed to the said affidavit are genuine documents.

6. Perusal of the order passed by the Revisional Authority shows that the said documents have not been considered. Considering the controversy involved in the revision Application, I find that the said documents are

very relevant which ought to be considered by the revisional Authority. A finding has been recorded by the revisional Authority that the license was originally granted in the name of the father of the first Respondent. In my view, it is necessary for the revisional Authority to reconsider the revision Application in the light of documents which are annexed to the additional affidavit. The revisional Authority will have to also consider the documents which are placed on record by the first Respondent.

7. In this view of the matter, the impugned order will have to be set aside and the revisional Authority will have to be directed to hear and decide the revision Application afresh after permitting the parties to rely upon all the relevant documents including the documents referred to above.

8. Hence, I pass the following order:

(i) The impugned Judgment and Order dated 29th December, 2006 is quashed and set aside and the revision Application filed by the first Respondent is restored to the file and is remanded to the revisional Authority for a fresh consideration.

(ii) The Authority will permit both the parties to rely upon various documents including the aforesaid documents. The revisional Authority will also call for the original record pertaining to the said license.

(iii) The revision Application shall be decided afresh as expeditiously as possible and in any event on or before 31st October, 2007.

(iv) All contentions of the parties on merits of the revision Application are expressly kept open.

(v) It is made clear that parties will maintain status-quo as of today in respect of the license and the business till the final disposal of the revision Application.

(vi) Writ Petition is partly allowed in above terms with no orders as to costs.

(vii) The concerned Authority to act upon an

authenticated copy of this order.

JUDGE